



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Planning & Development  
**Department No.:** 053  
**For Agenda Of:** May 15, 2018  
**Placement:** Departmental  
**Estimated Time:** 1.5 hours  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

---

**TO:** Board of Supervisors  
**FROM:** Department Director Dianne M. Black, Director, Planning and Development  
(805) 568-2086  
Contact Info: Jeff Wilson, Deputy Director, Development Review Division  
(805) 568-2518  
**SUBJECT:** Consider the Like-for-Like Rebuild (Debris Flow) Ordinance Amendments (Case Nos. 18ORD-00000-00005, 18ORD-00000-00006, and 18ORD-00000-00007), Countywide

---

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** N/A

**Recommended Actions:**

Consider the recommendations of the County and Montecito Planning Commissions and approve Case Nos. 18ORD-00000-00005, 18ORD-00000-00006, and 18ORD-00000-00007, which would amend, respectively, the Montecito Land Use and Development Code, the Article II Coastal Zoning Ordinance, and the County Land Use and Development Code, to implement new regulations and development standards regarding permitting requirements for structures that have been damaged or destroyed during a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features.

To follow the recommendations of the Montecito and County Planning Commissions, your Board's action should include the following:

- a) **Case No. 18ORD-00000-00005 (Montecito LUDC Amendment):**
- i) Make the findings for approval, including California Environmental Quality Act (CEQA) findings, of the proposed Ordinance (Attachment 1);
  - ii) Determine that the adoption of this Ordinance is exempt from CEQA pursuant to Sections 15061(b)(3), 15302, and 15305 of the Guidelines for Implementation of CEQA (Attachment 2); and,
  - iii) Adopt an Ordinance (Case No. 18ORD-00000-00005) amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35,

Zoning, of the County Code (Attachment 10, Exhibit 1), with the change recommended by staff included herein regarding the timing of design review.

**b) Case No. 18ORD-00000-00006 (Article II Coastal Zoning Ordinance Amendment):**

- i) Make the findings for approval, including CEQA findings, of the proposed Ordinance (Attachment 4);
- ii) Determine that the adoption of this Ordinance is exempt from CEQA pursuant to Sections 15061(b)(3), 15265, 15302, and 15305 of the Guidelines for Implementation of CEQA (Attachment 5); and,
- iii) Adopt an Ordinance (Case No. 18ORD-00000-00006) amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment 12, Exhibit 1), with the change recommended by staff included herein regarding the timing of design review.

**c) Case No. 18ORD-00000-00007 (County LUDC Amendment):**

- i) Make the findings for approval, including CEQA findings, of the proposed Ordinance (Attachment 7);
- ii) Determine that the adoption of this Ordinance is exempt from the CEQA pursuant to Sections 15061(b)(3), 15302, and 15305 of the Guidelines for Implementation of CEQA (Attachment 8); and,
- iii) Adopt an Ordinance (Case No. 18ORD-00000-00007) amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 11, Exhibit 1), with the change recommended by staff included herein regarding the timing of design review.

In the alternative, should your Board choose to adopt staff's original proposed ordinance language, your Board's action should include the following:

**d) Staff's Original Proposed Language for the Montecito LUDC Amendment, Article II Coastal Zoning Ordinance Amendment, and the County LUDC Amendment:**

- i) Make the findings for approval, including CEQA findings, of the proposed Ordinances (Attachment 1, 4, and 7);
- ii) Determine that the adoption of the MLUDC and LUDC Ordinances are exempt from CEQA pursuant to Sections 15061(b)(3), 15302, and 15305 of the Guidelines for Implementation of CEQA (Attachments 2 and 8) and the adoption of the Article II Ordinance is exempt from CEQA pursuant to Sections 15061(b)(3), 15265, 15302, and 15305 of the Guidelines for Implementation of CEQA (Attachment 5);
- iii) Adopt the Ordinance (Case No. 18ORD-00000-00005), as proposed by staff, amending Section 35-2, the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the County Code (Attachment 3), with the change recommended by staff included herein regarding the timing of design review.
- iv) Adopt the Ordinance (Case No. 18ORD-00000-00006), as proposed by staff, amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment 6), with the change recommended by staff included herein regarding the timing of design review.

- v) Adopt the Ordinance (Case No. 18ORD-00000-00007), as proposed by staff, amending Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 9), with the change recommended by staff included herein regarding the timing of design review.

**Summary Text:**

The January 9, 2018 debris flow events were catastrophic – in addition to the loss of life, approximately 470 structures in the Montecito area were damaged and/or destroyed, creek beds and banks expanded, and the topography of the Montecito community drastically changed. In an effort to assist property owners impacted from the January 9, 2018 events to rebuild safely and as expeditiously as possible, the Board of Supervisors, during their March 13, 2018 hearing, directed Planning and Development staff to draft ordinance amendments that would facilitate the rebuilding process for property owners. For consistency throughout the county, staff is proposing changes to the Land Use and Development Code (LUDC), Montecito Land Use and Development Code (MLUDC), and the Coastal Zoning Ordinance (Article II).

Two types of permitting paths currently exist for property owners that choose to rebuild their structure(s) after a disaster, including:

1. A “like-for-like” rebuild, which enables a structure to be rebuilt with the same or substantially the same footprint, height, floor area, and bulk as the structure that existed prior to the disaster (i.e. conforming structures can be within 10% of the previous footprint, height, floor area, and bulk). The like-for-like rebuild option is exempt from planning permit and design review requirements; however, if the exterior design or specifications of the structure are proposed to be changed as a result of the rebuilding process, the restored or replaced structure would be subject to Design Review.
2. A Land Use Permit (inland area), Coastal Development Permit (coastal zone), or Coastal Development Permit with Hearing (coastal zone appeals jurisdiction) is required when a structure is being rebuilt after a disaster with a different footprint, height, floor area, and/or bulk than what was previously permitted. Structures that require a Land Use Permit, Coastal Development Permit, or Coastal Development Permit with Hearing would not be exempt from Design Review if it otherwise applies.

As it exists today, the LUDC, MLUDC, and Article II do not allow property owners to obtain an exemption from planning permits (Land Use Permit or Coastal Development Permit) for a structure that needs to be raised to meet a new base flood elevation or moved to meet new creek setbacks after a debris flow event, as this is not considered a “like-for-like” rebuild. Further, the standard permitting and design review process is likely to take months longer than issuing a planning permit exemption in the inland portion of the County or De Minimis Coastal Development Permit Waiver in the coastal zone. This timeline can be exacerbated due to the potential for appeals of the planning permit and/or design review to the Planning Commission and Board of Supervisors. The proposed ordinance amendments would facilitate the ability for displaced property owners to obtain a planning permit exemption or waiver to rebuild their structure(s) in a safer location on their lot to meet Flood Control requirements.

If the Board of Supervisors approves the amendments, the MLUDC and LUDC would become effective 30 days after the hearing date (i.e. June 14, 2018) and Article II would be transmitted to the Coastal Commission for their consideration and certification, and would only become effective after certification. These ordinance amendments have been drafted and processed to align with the timing of

the Federal Emergency Management Agency (FEMA) advisory Recovery Map, which is anticipated to be released in June, to minimize the permitting delay for property owners who wish to rebuild.

**Proposed Amendments:**

At the direction of your Board, staff proposed to the Montecito and County Planning Commissions a specific planning permit and design review exemption in the MLUDC and LUDC for the “like-for-like” rebuilding of structures damaged or destroyed by a debris flow event or other catastrophic event resulting in a change in topography or alteration of drainage features.

Since exemptions for the replacement of structures after a disaster in the coastal zone are limited to those sited in the same location on the affected property as the destroyed structure, pursuant to California Coastal Act Section 30610, California Coastal Commission staff recommended that the County consider amending Article II to allow the Planning and Development Department Director to grant a De Minimis Coastal Development Permit Waiver for the rebuilding of structures damaged or destroyed by a debris flow event. A De Minimis Coastal Development Permit Waiver applies to properties in the coastal zone only if the property is outside of the Coastal Commission appeals jurisdiction.

The Ordinance Amendments to the MLUDC, LUDC, and Article II as originally proposed by staff would allow the following:

- The replaced or restored structure may exceed the height of the destroyed or damaged structure (as measured from the post-event grade to peak roof height) if necessary to comply with the base flood elevation that exists for the lot after the debris flow or other event. The height of the structure, from finished floor to the highest part of the structure, shall not exceed the equivalent height of the damaged or destroyed structure (by more than 10 percent for conforming structures) or exceed the maximum allowable height of the applicable zone.
- The replaced or restored structure may be relocated on the lot to meet applicable setbacks from top-of-bank and reduce flood hazards, as determined by the Director in consultation with the Flood Control District, if the structure complies with the applicable policies of the Comprehensive Plan and zoning requirements.
- Design Review shall not be required for a structure that is relocated on the lot or increased in height, unless the Director determines that the exterior design of the replaced structure is substantially different from the damaged or destroyed structure.

**Montecito Planning Commission:**

The Montecito Planning Commission reviewed the ordinance amendments for Article II and the MLUDC at their joint hearing with the Montecito Board of Architectural Review on April 17, 2018, and, by a unanimous vote by the Montecito Planning Commission, adopted Article II Resolution No. 18-12 with recommendations to the County Planning Commission and MLUDC Resolution No. 18-11 (Attachment 10) with recommendations to your Board. The Montecito Planning Commission recommends that your Board suspend final action on the MLUDC Ordinance Amendment until the FEMA advisory Recovery Map is complete and members of the public have had time to review the ordinance amendments in context with the anticipated mapping. The Montecito Planning Commission further recommends that after the Recovery Map is released, the MLUDC Ordinance Amendment be referred back to their Commission for final recommendations. Please refer to the Montecito Planning Commission Action Letter (Attachment 16) and the Montecito Planning Commission (MLUDC) Resolution and Proposed Ordinance No. 18-11 (Attachment 10) for the complete motion.

The Montecito Planning Commission recognized that their recommendation differs from the direction provided by the Board to process these Ordinance Amendments expeditiously so that property owners can rebuild once the FEMA Recovery Map is released in June, without needing a planning permit. For that reason, the Montecito Planning Commission also provided an alternative recommendation, should your Board take action on the proposed ordinance amendments, recommending that your Board adopt the following changes to the proposed MLUDC:

- Modify the language of the MLUDC to require that an exemption only be allowed for structures that relocate on the lot to the *minimum distance necessary* to meet creek setbacks.
  - If a property owner wants to move their structure further away than the minimum creek setback, they would be required to obtain a Land Use Permit under this recommendation.
- If the base flood elevation requires the rebuilt structure to be raised by 10% or more, the structure from finished floor to peak roof height cannot be further increased in height by up to an additional 10% without requiring a new Land Use Permit.
  - Currently, the LUDC and MLUDC allow property owners to obtain a planning permit exemption for conforming structures damaged or destroyed by a disaster to rebuild with an increase in height by up to 10%. Under this recommendation, property owners that have to increase the height of the structure by 10% or greater to meet a new base flood elevation would not also be allowed to rebuild an additional 10% of the previous height (from finished floor to peak roof height) under a planning permit exemption.
- Require design review if any exterior design or specifications to a restored or replaced structure “are proposed to be changed.”
  - This is consistent with existing ordinance requirements for “like-for-like” rebuilt structures, but differs from staff’s original proposed language, which only requires Design Review if a structure is “substantially different” from the previous structure, as determined by the Planning and Development Department Director.
  - Design Review shall not be required for structures that are required to increase in height to comply with the base flood elevation that exists after a debris flow event or relocate the minimum necessary to meet creek setbacks, if the exterior design and specifications are otherwise not proposed to be changed.

The Montecito Planning Commission made similar recommendations to the County Planning Commission regarding the Article II Ordinance Amendment. The MLUDC Resolution and Action Letter attached to this Agenda Letter as Attachments 10 and 16 reflect the recommendations of the Montecito Planning Commission.

**County Planning Commission:**

The County Planning Commission reviewed the LUDC and Article II ordinance amendments at their April 25, 2018 hearing, and by a unanimous vote, adopted Resolution Nos.18-14 and 18-15 (Attachments 11 and 12) recommending that your Board adopt the proposed amendments to the County LUDC and the Article II Coastal Zoning Ordinance, with modifications to the design review requirements and scope of the planning permit exemption parameters, which differ from the Montecito Planning Commission’s recommendation. The County Planning Commission recommends that your Board make the following proposed modification to the amendments of the LUDC and Article II:

- Require design review for: 1) structures that are being relocated on the lot; and 2) structures with an exterior design or specifications that are “proposed to be changed” from the previously existing structure.
  - This recommendation differs from staff’s original proposed language, which only requires Design Review if a structure is “substantially different” from the previous structure.
  - This recommendation requires that any relocated structure be subject to design review, even if no exterior changes are proposed, which differs from the Montecito Planning Commission’s recommendation.
  - Design Review shall not be required for structures that are required to increase in height to comply with the base flood elevation that exists after a debris flow event, if the exterior design and specifications are otherwise not proposed to be changed.

During the County Planning Commission hearing, staff advised the Planning Commission that design review decisions would be appealable to the Planning Commission and Board of Supervisors. Based on that discussion, the County Planning Commission also recommends that your Board direct staff to explore an expedited design review and appeals process for properties impacted by a debris flow event. Should your Board direct staff to explore this option, staff would return to your Board after developing options, including fiscal implications, to receive direction from the Board.

The County Planning Commission Action Letter (Attachment 13), LUDC Resolution and Proposed Ordinance No. 18-14 (Attachment 11), and the Article II Resolution and Proposed Ordinance No. 18-15 (Attachment 12) reflect the recommendations of the County Planning Commission.

**Minor Change Recommended by Staff:**

Following the April 17, 2018 Montecito Planning Commission and the April 25, 2018 County Planning Commission hearings, and in light of the change to design review recommended by the County Planning Commission, staff reviewed the Ordinance Amendments, and recommends that your Board clarify the timing of Design Review in relationship to the planning permit exemption or waiver process. Specifically, staff recommends that the following change be made throughout whichever version of the MLUDC, LUDC, and Article II Ordinance Amendments your Board adopts, as applicable (change shown in bold):

*If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on or affecting the lot on which the replaced or restored structure would be located, the restored or replaced structure, even if relocated on the lot or increased in height, shall not require Design Review unless the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director. **If the structure is otherwise exempt from requiring a planning permit but requires Design Review, the structure shall receive preliminary and final design review approval before an exemption or waiver is issued.***

**Policy Consistency and Ordinance Compliance:**

As part of the process to obtain a development permit, exemption, or waiver based on the proposed Amendments, staff will review each application for consistency with applicable policies and development standards. Please refer to the Montecito Planning Commission staff report and the County

Planning Commission staff report for a detailed Comprehensive Plan consistency analysis of the proposed ordinance amendments (Attachments 14 and 17).

Further, a structure that is relocated to comply with top-of-bank setbacks or that has a change in finished floor to comply with a new base flood elevation would still be required to comply with applicable ordinance requirements, including setbacks, height, parking, and site coverage.

**Fiscal Analysis:**

The cost to process the Ordinance Amendments in the MLUDC, LUDC, and Article II is approximately \$39,000. This fiscal analysis is based on the anticipated amount of P&D staff time spent to process the MLUDC, LUDC, and Article II Ordinance Amendments. Funding for updates to zoning ordinances is budgeted in the Long Range Planning Program on page D-286 of the 2017-2019 recommended budget.

Should your Board approve the recommendations of the County or Montecito Planning Commission which would subject more rebuilds to the permitting and/or design review process than the staff recommended changes, the additional volume of permitting and design review may require an increase in FTE in Planning and Development. These costs are offset by fees paid by project applicants. The cost and time to applicants for obtaining permits or design review approval to rebuild would increase.

If the Board directs staff to develop an expedited design review process, staff will return to your Board with a fiscal analysis resulting from additional Montecito Board of Architectural Review meetings or the establishment of a new Board of Architectural Review that is specifically focused on the rebuilding of structures impacted by debris flow events.

**Special Instructions:**

- A. The Planning and Development Department will satisfy all noticing requirements.
- B. The Clerk of the Board will provide copies of the Minute Order and signed Ordinances to the Planning and Development Department, attention David Villalobos.

**Attachments:**

- 1. 18ORD-00000-00005 (MLUDC) Findings
- 2. 18ORD-00000-00005 (MLUDC) Notice of Exemption
- 3. 18ORD-00000-00005 (MLUDC) Proposed Ordinance (originally proposed by staff)
- 4. 18 ORD-00000-00006 (Article II) Findings
- 5. 18 ORD-00000-00006 (Article II) Notice of Exemption
- 6. 18 ORD-00000-00006 (Article II) Proposed Ordinance (originally proposed by staff)
- 7. 18ORD-00000-00007 (LUDC) Findings
- 8. 18ORD-00000-00007 (LUDC) Notice of Exemption
- 9. 18ORD-00000-00007 (LUDC) Proposed Ordinance (originally proposed by staff)
- 10. Montecito Planning Commission (MLUDC) Resolution and Proposed Ordinance No. 18-11
- 11. County Planning Commission (LUDC) Resolution and Proposed Ordinance No. 18-14
- 12. County Planning Commission (Article II) Resolution and Proposed Ordinance No. 18-15
- 13. County Planning Commission Action Letter (w/o attachments)
- 14. 04-5-2018 County Planning Commission Staff Report (w/o attachments)
- 15. 04-24-2018 County Planning Commission Memorandum

16. Montecito Planning Commission Action Letter (w/o attachments)
17. 03-29-2018 Montecito Planning Commission Staff Report (w/o attachments)
18. 04-16-2018 Montecito Planning Commission Memorandum
19. Guidance to Property Owners, Montecito Debris Flow Rebuilds, located here:  
<http://www.sbcountyplanning.org/pdf/misc/Guidance%20for%20Rebuilding03.13.2018.pdf>

**Authored by:**

Tess Harris, Development Review Division, Planning and Development, ext. 3319